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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,355	01/11/2002	Laurel A. Novacek	968-158	6801

23117 7590 10/29/2003

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EXAMINER

KENNEDY, SHARON E

ART UNIT PAPER NUMBER

3762

DATE MAILED: 10/29/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/042,355

Applicant(s)
Novacek et al.

Examiner
Sharon Kennedy

Art Unit
3762



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 8, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 13-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or in the MPEP.

Claim Rejections - 35 USC § 102

2. Claims 13-15, 17-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Haller, US 4,692,156.

Allowable Subject Matter

3. Claim 16 is allowed. The examiner would like to clarify that claim 16 defines over Haller Figure 3 because claim 16 requires that the needle carrier be threadedly engaged with the distal end of the barrel. In contrast, Haller Figure 3 discloses the needle carrier being threadedly engagable with threaded recess 68, not the distal end of the barrel.

Response to Arguments

4. Applicant's arguments filed October 8, 2003 have been fully considered but they are not persuasive. The examiner agrees with applicant's arguments regarding the Vining and Haber prior art, but does not agree with the comments regarding Haller, and this rejection is maintained. Applicant further defines the engagable mating elements as having a laterally projecting rib and another of the elements including a groove, and the elements snapping over each other. Haller discloses a cannula base 60 which has an enlarged outer circumference (unlabeled) which interacts with gripping member 62. The examiner takes the position that these elements anticipate the claimed groove and rib set forth in the claims. Applicant also argues that cannula base 60 is not a needle carrier, and this is not secured to the interior wall surface of the distal end

of the barrel, however, these remarks are seen as merely semantic since clearly the figures show cannula base 60 secured to the interior of the distal wall. In addition, cannula base 60 may be made of "hard plastic material" (column 3, lines 66) which demonstrates that the needle and the cannula base 60 are two pieces just as implied by applicant's claims. The examiner also takes that position that even if the needle and cannula base were of one piece construction, the cannula base has a significant amount of design that brings it into the realm of the claimed needle carrier.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Kennedy whose telephone number is (703) 305-0154.

October 28, 2003

Sharon Kennedy
Sharon Kennedy
Primary Examiner